

8130.4400 CREDIT AGAINST USE TAX.

Subpart 1. **General rule.** Under Minnesota Statutes, section 297A.80, a credit is allowed against the use tax due under Minnesota Statutes, section 297A.63, from any person on any item purchased by the person if the item has previously been subjected to a sales or use tax in another state or a subdivision of the other state. The credit is allowed to the extent of the rate legally imposed on the item in the other state. If the tax paid in the other state is subject to refund by the other state, it is not legally imposed for purposes of this credit. If the rate imposed by the other state or any subdivision of the other state is equal to or higher than the rate imposed under Minnesota Statutes, section 297A.63, then no tax is due. The credit is not allowed for taxes paid to a foreign country.

Calculation of use tax due is governed by Minnesota Statutes, section 297A.80. That section states that use tax provisions apply only at the rate measured by the difference between the rate fixed by Minnesota Statutes, section 297A.63, and the rate by which the previous tax was calculated in the other state. The maximum amount of tax which will be assessed by Minnesota according to Minnesota Statutes, section 297A.80, is the amount of tax calculated from the Minnesota rate. Use tax due to Minnesota is the tax prescribed by the rate in Minnesota Statutes, section 297A.63, less the rate paid in the state of purchase. If the sales tax imposed in the state of purchase is equal to or greater than the amount of Minnesota use tax, no Minnesota use tax is due.

Subp. 2. **Erroneous tax payment.** A Minnesota taxpayer who erroneously pays a sales tax to another state may not take a credit against the tax due Minnesota on the Minnesota return. Credit is allowed against the tax due Minnesota if the Minnesota taxpayer has legally paid a sales tax to another state and may only be taken by the person who paid the tax to the other state.

Subp. 3. [Repealed, L 2005 c 151 art 7 s 23]

Statutory Authority: *MS s 14.388; 270C.06; 297A.25; 297A.27; 297A.29*

History: *15 SR 693; L 2005 c 151 art 1 s 114; art 7 s 23; 31 SR 449*

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